

From: [Miller, Garyg](#)
To: [Turner, Philip](#)
Subject: RE: Pesticides & Toxic Substances Law News for December 22, 2014
Date: Wednesday, January 21, 2015 4:20:00 PM
Attachments: [image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)

Thanks Phil; good comments!

Gary Miller
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From: Turner, Philip
Sent: Wednesday, January 21, 2015 4:16 PM
To: Miller, Garyg
Subject: Re: Pesticides & Toxic Substances Law News for December 22, 2014

The primary issue, according to this article, up there is that of potential exposures from agriculture. Sure, exposure to food or animals grown on contaminated land is possible and is something we address on a regular basis. Now knowing that the flood plain is used as such, I'm surprised they didn't take a closer look at it. They might have, but determined that those risks were negligible as compared to soil/sediment contact. The risks posed by agriculture may not have contributed significantly to overall risk.

In the case of San Jac, these are non-issues. There is no agriculture in the surrounding areas and flood plain... at least not that I know of. The closest thing is the risks posed by folks eating the fish and crabs. Those were both addressed in the risk assessments for the San Jac site... except a better look at subsistence fishing. They are also addressed somewhat by the fish advisories.

The other main issue appears to be disagreement over the 250 ppt clean-up number for residential soils. Yes, it is quite a bit higher than the 50 ppt, but the 50 ppt is based on some of the most conservative assumptions we can make. It does not surprise me, nor is it unusual, for a more refined risk assessment to come up with legitimate but higher numbers. I can't really speak more on this without studying the calculations and assumptions of said risk assessment.

Let me know if you would like to discuss further...



9672381

From: Miller, Garyg
Sent: Tuesday, January 6, 2015 11:44 AM
To: Foster, Anne; Turner, Philip
Cc: Sanchez, Carlos; Walters, Donn
Subject: RE: Pesticides & Toxic Substances Law News for December 22, 2014

Thanks Anne, I haven't seen this before.

Phil – please take a look at the article (**[Latest News - State Urges EPA To Limit Agricultural Exposures In Novel Dioxin Cleanup](#)**) – I would appreciate your thoughts on this in relation to the San Jacinto site.

Thanks,

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From: Foster, Anne
Sent: Tuesday, January 06, 2015 11:29 AM
To: Miller, Garyg
Subject: FW: Pesticides & Toxic Substances Law News for December 22, 2014

I don't know if you get these reports, but one of the stories is about unhappiness with the proposed dioxin cleanup standards for the Tittabawassee (sp?) site.

From: Morgan, Jeanette
Sent: Tuesday, December 23, 2014 12:38 PM
Subject: FW: Pesticides & Toxic Substances Law News for December 22, 2014

Pesticides & Toxic Substances Law News for December 22, 2014

Bloomberg **Daily Environment Report™**
BNA

Biotechnology
[China Agrees to Allow Imports of GMO Corn.](#)

[Soybeans in Wide-Ranging Trade Agreement](#)

China has agreed to approve several strains of genetically modified corn and soybeans as a part of a broad trade agreement reached with the U.S....

Chemicals

['Sufficient Causation' Not Needed for Claims In DuPont PFOA Case, Federal Judge Rules](#)

DuPont must abide by the terms of its perfluorooctanoic acid (PFOA) class-action settlement with regard to personal injury litigation, a federal judge has ruled (In re E. I. Du Pont De Nemours, S.D. Ohio, No. 2:13-md-2433, 12/17/14)....

Enforcement

[Lead Paint Violations Result in EPA Citing 62 Contractors, Schools, \\$213,171 in Fines](#)

Sixty-two construction contractors and trainers were the target of lead paint-related enforcement actions announced Dec. 19 by the Environmental Protection Agency....

Risk Assessment

[Concise IRIS Ammonia Assessment Would Ease Use, EPA Advisory Panel Says](#)

In an effort to make its analysis of ammonia's health hazards more concise and understandable for users, the Environmental Protection Agency should continue to move data from the text into tables and figures, according to an agency...



Latest News

State Urges EPA To Limit Agricultural Exposures In Novel Dioxin Cleanup

State regulators and community advisors are backing environmentalists' calls for EPA Region 5 to assess and mitigate potential exposures to dioxin through contaminated food as part of a novel cleanup in Michigan, calling for monitoring and land use controls, though industry is arguing the cleanup plan is already overly conservative.

Agency Advisors Urge EPA To Strengthen Draft Fish Consumption Guide

EPA's children's health advisors are urging the agency to strengthen its draft fish consumption advice for pregnant women and children by adding several species to a "do not eat" list and offering more specific advice on health risks from consuming other species, backing advocates' claims that the draft fails to adequately limit mercury exposures.

Greenwire

LEAD:

EPA takes enforcement action against 61 firms

Sam Pearson, E&E reporter

Published: Friday, December 19, 2014

U.S. EPA will fine 55 companies a combined \$213,171 for failing to use required lead abatement techniques during renovation, repair and painting operations, the agency said today.

The agency also filed complaints against six other companies operating in five states.

EPA said the companies violated the agency's standards that require contractors to use workers certified in lead removal and who have received appropriate training when they are performing work on homes or child care facilities constructed before 1978, when lead-based paints were banned in homes. Companies are also supposed to notify residents of lead hazards before beginning renovation work.

The enforcement actions occurred between February and October, the agency said.

The agency issued its highest fine of \$39,532 to an Irvine, Calif.-based company called College Works Painting for allegedly violating work practices and record-keeping rules.

College Works Painting CEO Matt Stewart said the fine stemmed from employees' failure to establish a proper containment area at a project in Idaho in 2011. Stewart said the company's employees receive EPA certifications but many businesses had trouble learning the new lead renovation rules when they took effect in 2010, though the standards were "crystal clear." He said the fine was "a bit excessive" but would send a message to the industry.

"In this case, our employees were not doing it right, and we're paying a hefty, very painful price for it, but it's a serious deal," Stewart said.

Five other firms also faced fines of more than \$10,000 each, while the agency reached settlement agreements with 22 companies for reduced payments of \$2,000 or less, for what the agency said were relatively minor violations. Another 27 companies paid less than \$10,000 because their fines were reduced due to an inability to pay, according to EPA.

"Children are most vulnerable to the dangers of lead paint exposure, especially those in predominantly minority and low-income communities, where housing is more likely to contain lead-based paint," Cynthia Giles, EPA's assistant administrator for enforcement and compliance assurance, said in a statement.

"These cases to enforce the RRP rule are vitally important to improving compliance among companies that handle lead-based paint. This leads to safer communities, healthier children and a level playing field for companies that follow the law."

PESTICIDES:

EPA corrects rule on export labeling

Tiffany Stecker, E&E reporter

Published: Friday, December 19, 2014

U.S. EPA has made changes to a pesticide labeling rule to correct an administrative error made early last year.

The [rule](#), published in today's *Federal Register*, corrects EPA's inadvertent removal of a provision that allows information on pesticides in "collateral labeling" -- bulletins, leaflets, brochures and other papers with pesticide safety information -- to be attached to a shipping container rather than the individual packages of the chemical.

Karen Reardon, vice president of public affairs for Responsible Industry for a Sound Environment, a trade association representing manufacturers and distributors of specialty pesticides, said the group was "fully supportive" of the rule. It adds additional clarity around the term collateral labeling, she said, which can either be attached to the chemical's package itself or can accompany the shipping container.

Collateral labeling "allows pesticide manufacturers to avoid the extra time and costs involved in producing an individual label for each pesticide container," according to RISE's comments to EPA.

EPA revised its export label regulations in January 2013. Industry groups called on EPA to reinstate the provision, saying it "could create trade barriers and increase costs," according to EPA's announcement.

The agency issued a direct final rule in April to replace the provision that was inadvertently removed. The agency later withdrew that rule and followed with a proposed rule, which was finalized today.

No environmental groups submitted comments to the rule, according to Regulations.gov. Collateral labeling can cause concerns if a pesticide's packaging is divided and sold individually without labels, said Jay Feldman, executive director of Beyond Pesticides.

CHEMICALS:

Emergency logs show disarray, confusion in DuPont leak

Published: Friday, December 19, 2014

Records released by Harris County, Texas, investigators show that DuPont Co. employees at the company's La Porte chemical plant responded frantically to a chemical leak last month.

Danny Francis, an employee who was working at the plant at 3:30 a.m. on Nov. 15, "heard a female voice on the radio that sounded 'frantic,'" the documents said. That turned out to be Crystle Wise, who had joined the company eight months earlier.

Wise said she had been exposed to a chemical and was experiencing a reaction, but no alarms at the control room where Francis was working showed a chemical leak, and nothing on computer screens showed Wise's location.

Francis put on a helmet, goggles and gloves, and went to the Lannate building, which is part of the company's Insecticide Business Unit, shortly behind co-worker Robert Tisnado, the reports from the Harris County fire marshal and sheriff's office said.

Francis climbed stairs to the fourth floor of the building, but couldn't find either of his co-workers.

Wise; Tisnado; Tisnado's brother, Gilbert "Gibby" Tisnado; and Wade Baker all died in the leak of 23,000 pounds of methyl mercaptan.

The documents said Francis called control room supervisor David Scott from inside the Lannate unit to report that other workers might still be trapped in the area. He tried to turn around, but became dizzy and fell down the stairs, the report said.

Francis didn't learn that a serious chemical leak had occurred until an ambulance worker told him as he was being transported to a nearby hospital. Francis, who still works for DuPont, couldn't be reached for comment.

Logs show plant workers gave conflicting information to emergency response officials for hours and that no one could find Wise. Some thought Wise might have "gone home." Eventually, workers found her body in a stairwell between the second and third floors, next to a pair of glasses and the radio she used to alert others (Lise Olsen, [Houston Chronicle](#), Dec. 18). -- SP

CHEMICALS:

Consultant's science firm raises conflict-of-interest questions -- report

Published: Friday, December 19, 2014

Michael Dourson's nonprofit consulting firm, Toxicology Excellence for Risk Assessment, or TERA, is a one-stop science shop that performs some of the same processes U.S. EPA tries to do to evaluate the safety of chemicals -- only faster, and sometimes, with results more favorable to the chemical industry. That's made TERA a favored firm for industry groups and pro-business regulators in states like Texas, though Dourson says the group doesn't favor the industry.

Dourson, a toxicologist who worked for EPA for 15 years, has become an influential figure in the field of risk assessment -- the science of determining how much of a particular chemical can be used without adverse health impacts. Reports have said Dourson is one of two finalists for EPA's top chemical assessment job ([Greenwire](#), Dec. 9).

More than 50 percent of the group's peer-review panels since 1995, though, were for studies funded by industry groups. And TERA's risk-assessment database receives financial support from a variety of companies and government agencies.

Dourson is also a close friend of Michael Honeycutt, the top Texas Commission on Environmental Quality toxicology official, which runs its own risk-assessment program that has assessed many chemicals more favorably to industry than EPA ([Greenwire](#), Dec. 18).

Some of TERA's early work included a controversial partnership with the Center for Indoor Air Research, a tobacco industry group, which paid TERA to produce studies downplaying the health effects of secondhand smoke. Other scientists have been frustrated by what they say is the group's tendency to over-legitimize industry data.

"We get criticized by everyone," Dourson said. "But that doesn't change the fact that TERA is neutral" (Adams/Song, [Center for Public Integrity](#), Dec. 19). -- SP

PESTICIDES:

Feds probe suspicious Ore. crow deaths

Published: Friday, December 19, 2014

Lab tests show that a pesticide killed more than two dozen crows in downtown Portland, Ore., but authorities say they aren't sure whether the crows were poisoned on purpose.

The incident is being investigated by the U.S. Fish and Wildlife Service's Office of Law Enforcement, U.S. EPA and Oregon State Police officers.

The crow carcasses were sent to the National Fish and Wildlife Forensics Laboratory in Ashland, Ore., earlier this month for analysis, after the Audubon Society of Portland and other groups found the dead crows at three Portland parks on Nov. 26.

Tests showed the birds died from a pesticide used to kill nuisance birds, though authorities have not said specifically which product caused the birds' deaths. It's illegal to kill crows intentionally because they are protected under the Migratory Bird Treaty Act (George Rede, [Portland Oregonian](#), Dec. 17). -- SP

HAWAII:

County to appeal GMO ruling

Published: Friday, December 19, 2014

Citing concerns about local farmers, the Hawaii County Council voted yesterday to appeal a federal judge's ruling about genetically modified crops on the island.

In November, U.S. Magistrate Judge Barry Kurren struck down a county law that restricted the use of genetically modified organisms on the island.

The Hawaii County Council voted yesterday to appeal a federal judge's ruling that struck down a county law restricting genetically modified crops, saying the issue fell to the state Legislature's jurisdiction.

The County Council agreed to appeal by a 5-4 vote. While local farmers agreed with the decision, scientists at the University of Hawaii, Hilo, and UH Manoa said the county law had been "misguided."

"Transgenic crops should be evaluated for safety, and on a case-by-case basis," said UH Hilo professor Michael Shintaku, who teaches plant pathology ([AP/Honolulu Star-Advertiser](#), Dec. 19). -- AW

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